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2 UNITED STATES BANKRUPTCY COURT
3 SOUTHERN DISTRICT OF NEW YORK

Table 1: Motivation

7 RUDOLPH W. GIULIANI, Main Case No.
8 Debtor. 23-12055-shl

16 | January 31, 2024

17 | 2:08 PM

21 | B E F O R E :

22 HON. SEAN H. LANE

23 U.S. BANKRUPTCY JUDGE

25 ECRO: ALIANNA PERSAUD AND ART TAVAREZ

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2 Initial case conference
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11 ALSO PRESENT:

12 Rudolph W. Giuliani, Debtor

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1 P R O C E E D I N G S

2 (Audio begins mid-sentence)

3 THE COURT: -- in the United States Bankruptcy Court for
4 the Southern District of New York. And we're here this
5 afternoon for an initial case conference in the Chapter 11 case
6 of Rudolph Giuliani.

7 The initial case conference title is a bit of a misnomer,
8 since it was an extended hearing in this case earlier on, a
9 motion to lift the automatic stay. So we're treating today as
10 a status conference.

11 So with that, we'll start, as we always do, with
12 appearances. So let me get appearances starting with the
13 debtor.

14 MR. BERGER: Good afternoon, Your Honor. Heath
15 Berger, of Berger, Fischoff, Shumer, Wexler & Goodman,
16 attorneys for the debtor.

17 THE COURT: All right.

18 MR. FISCHOFF: Good afternoon, Judge. Gary Fischoff
19 also for the debtor.

20 THE COURT: All right. Good afternoon.

21 And on behalf of the plaintiffs in the district court
22 litigation, the judgment plaintiffs who have a judgment of 148
23 million, let me get that appearance.

24 MS. STRICKLAND: Good afternoon Rachel Strickland,
25 Strickland, Willkie Farr & Gallagher, on behalf of Ruby Freeman

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1 and Shaye Moss.

2 THE COURT: All right. Good afternoon.

3 On behalf of the official committee of unsecured
4 creditors?

5 MR. DUBLIN: Good afternoon, Your Honor. Phil Dublin,
6 Akin Gump Strauss Hauer & Feld, proposed counsel to the
7 committee.

8 THE COURT: Good afternoon.

9 On behalf of what I'll call the Herring parties who
10 have filed a motion that has not yet been heard, let me get
11 that appearance.

12 All right. I'm not hearing anything. So they may be
13 here, or they may be having some technical issues. Hard to
14 know, frankly, but happy to hear them if they join.

15 And let me get the appearance from the United States
16 Trustee's office.

17 MS. SCHWARTZ: Good afternoon, Your Honor. Andrea
18 Schwartz for the United States Trustee.

19 THE COURT: All right. And let me find out, as is
20 often the case in very large Chapter 11 cases, or significant
21 cases, there are many pages of appearances, because there are a
22 lot of people who are tuned in, many of whom don't intend to
23 speak. So at this point, I'll turn it over to anybody else who
24 anticipates needing to speak at today's hearing to make an
25 appearance.

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1 MR. SAMUELS: Good afternoon, Your Honor. I don't
2 know if we'll end up making an appearance, but Joel Samuels of
3 the Buchalter firm, on behalf of the Dominion parties.

4 THE COURT: All right. Good afternoon.

5 Anyone else?

6 MR. FISCHOFF: Actually, this is Gary Fischoff for the
7 debtor. I just want to point out that Mr. Giuliani is
8 appearing. Mr. Giuliani, if you want to just click on and say
9 hello. And obviously he'll be speaking through his attorneys,
10 but he is attending the status.

11 THE COURT: All right. Happy to have him here,
12 obviously. Good afternoon.

13 With that, anyone else who would like to chime in
14 before we turn to the business of status?

15 All right. And just since it is styled as an initial
16 case conference, we're doing this by Zoom. We do that here in
17 court in order to keep costs down, in the interest of
18 efficiency, with the thought that, when it is appropriate and
19 necessary to be in person, we are. Obviously that would cover
20 anything that's evidentiary. It would also cover anything that
21 involves extended argument, because that's much easier to do in
22 person, as was demonstrated, I think, at the last hearing.

23 So with that, in the interest of talking about status,
24 I thought I would turn it over to debtor's counsel to start us
25 off, with the notion starting there and then circling the

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1 virtual room.

2 So Mr. Fischoff?

3 MR. BERGER: Actually, Your Honor, I was going to take
4 this.

5 THE COURT: Mr. Berger.

6 MR. BERGER: Thank you, Your Honor. I appreciate it.
7 Your Honor, obviously, as we were at the last hearing, I mean,
8 all the parties, I believe, are familiar with the debtor, his
9 history with New York City, also the events that have led up to
10 this filing.

11 Again, while filing bankruptcy is a decision that the
12 debtor did not take lightly -- it wasn't even on his radar
13 until the verdict was entered in the case -- the debtor
14 believes that this bankruptcy is the most efficient and
15 economical way to proceed forward at this time.

16 And as far as the status goes, Your Honor, the
17 petition was filed on December 21st, 2023. The balance of the
18 schedules were filed on January 26th, 2024. On January 5th,
19 Your Honor, 2024, the motion for relief was filed to allow the
20 debtor to file a motion for a new trial and a notice of appeal
21 of the judgment that we just talked about.

22 The hearing was held on January 12th, and orders have
23 been going back and forth between my office, Ms. Strickland's
24 office, the U.S. Trustee's office, and the creditors'
25 committee. I believe there was a version that came through

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1 last night. I sent out an email, Judge, for a telephone
2 conference for Friday. But I do believe that that order should
3 be in good shape. I don't think there's really many points or
4 sticking points that's left at this point on that order.

5 THE COURT: All right. Thank you for an update on
6 that. I had checked my inbox to make sure I hadn't missed it,
7 and I was going to ask about that. Obviously, we spent a lot
8 of time at the last hearing going through the contours of the
9 requested relief and what made sense and I think reached a
10 general consensus on it. And I think hopefully there was
11 enough direction and clarity on the record that the order
12 shouldn't too much of a stumbling block in terms of language.

13 But I will say, to the extent that the parties can't
14 get there, at a certain point we should get the order entered,
15 So you can submit dueling versions. I'm not encouraging it.
16 But at the same time, if it's necessary, you can do that.

17 And I'll take a look and go back and look at the
18 transcript, and I should be able to sort through whatever the
19 dispute is. And if for some reason I need to talk to anybody,
20 I'll have a quick status conference to do that.

21 MR. BERGER: Thank you very much, Your Honor. Greatly
22 appreciate the input from the Court. And I think, based upon
23 the hearing and the Court's input, I do believe that we should
24 be able to have one order that's agreeable to all parties.

25 THE COURT: All right.

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1 MR. BERGER: So my goal is hopefully we'll have that
2 worked out by the end of the week.

3 Additionally, Your Honor, retention applications have
4 been filed with the Court. One was for the retention of the
5 law firm of Camara & Sibley. They are the attorneys that are
6 representing Mr. Giuliani in regard to the Freeman litigation.

7 There was also a retention application for the law
8 firm of Aidala, Bertuna & Kamins. They're representing the
9 debtor in his New York State and D.C. disciplinary proceedings.

10 And there was also the retention from my firm, Your
11 Honor.

12 The U.S. Trustee had some comments and some issues in
13 regard to the retentions. We did file amended affidavits based
14 upon the U.S. Trustee's concerns and questions, so we hope that
15 that's resolved.

16 I do understand that Ms. Strickland does have a couple
17 of further issues. And I'm also hoping, in our conference call
18 on Friday, when we go through the order, we can work that out
19 so we can kind of try to get everything to move smoothly, Your
20 Honor, try to avoid any kind of hearings and stuff before the
21 Court in regard to the retention applications. So that is my
22 hope, Your Honor.

23 THE COURT: All right. And I would think that would
24 be one way, although it might not be the only way to address
25 one of the issues that was the subject of discussion at the

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1 last hearing, which was the source of funds for the payment of
2 filing the motion that was the subject of the lift stay
3 request, and the source of those funds.

4 I wasn't sure exactly -- I know the parties were going
5 to talk about that, and the idea was to run it to ground so
6 that everybody was on the same page. I wasn't sure exactly how
7 that was going to be accomplished.

8 Certainly to the extent that there are declarations
9 being filed in connection with retentions, that's one way to do
10 it. There may be other ways. And I'm happy to be guided by
11 the parties' collective wisdom on that in terms of the most
12 efficient way to put that issue to bed.

13 MR. BERGER: Great. Thank you very much, Your Honor.
14 Again, we greatly appreciate the Court's input and help in
15 these matters.

16 As stated before, we all know that there's no pot of
17 gold at the end of the day. The debtor is hoping to use the
18 bankruptcy process to allow him time to resolve numerous
19 outstanding lawsuits and actions, and then put together a plan
20 of reorganization which will allow him an opportunity to move
21 forward and have these issues resolved.

22 We are definitely in the early, early stages of this
23 proceeding, Your Honor. We've been in constant contact with
24 the U.S. Trustee's office, the creditors' committee attorney,
25 and Ms. Strickland to work out these issues. We've had

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1 numerous discussions on how we want to work things on to move
2 forward, and I think those conversations have all been very
3 constructive. And I look forward to a continued positive
4 working relationship with all the parties.

5 As far as going forward, Your Honor, at this point, we
6 are in the process of working on an application to retain
7 Sotheby's to list Mr. Giuliani's New York City apartment. They
8 sent us some terms. Mr. Fischoff negotiated some terms out of
9 it. So once we receive that, we will send it to the U.S.
10 Trustee, and all parties involved, for their thoughts and
11 opinions in regard to that retention. But that is something,
12 Judge, we're working to try to get out as soon as possible.

13 Additionally, Judge, the 341 meeting is scheduled next
14 Wednesday, in person in the City, and all parties will be
15 appearing on that.

16 Again, Your Honor, I think this case is in its early
17 stages, so I don't want to, kind of, give a time frame to the
18 Court on when or where I think a plan of reorganization is
19 going to be. There's obviously a lot of issues that need to be
20 resolved.

21 There's issues concerning the 148-million-dollar
22 judgment. There's a lot of other lawsuits that are pending
23 that there is no amounts due or no verdicts or judgment
24 rendered. So those cases will have to be worked on. We are in
25 contact with a number of the creditors to try to see where we

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1 are in order to be able to move this case forward to a
2 conclusion.

3 Other than that, Your Honor, like I said, it's in the
4 early stages, and we are looking to move this case as
5 efficiently as possible. And we appreciate, again, the Court's
6 help in this.

7 THE COURT: All right. Thank you very much for the
8 update. Quick question for you, which is, you've laid out a
9 couple of the specific things that are in the near term, which
10 is the 341 meeting, the retention of Sotheby's, in terms of the
11 marketing of the property.

12 Do you have any sense at this point, either from the
13 debtor's point of view, or from the point of view that you've
14 arrived at after consultation with other parties, of what the
15 plan is -- small P -- not the actual plan of reorganization,
16 but what -- you know, every case of bankruptcy is different,
17 and it has different challenges and different things that need
18 to be accomplished.

19 But just what -- obviously, the sale of the property
20 is one thing that's being teed up. Is there any other thought
21 as to what the next six months might look like in terms of
22 court time and what you might need to accomplish?

23 MR. BERGER: Sure, Your Honor. I think some of that
24 is going to be dependent on where the motion proceeds forward
25 in regard to Freemen plaintiffs, because obviously that is the

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1 largest and only judgment that's out there. So depending on
2 what happens with those motions and the appeal that's filed, I
3 think that's going to determine what our course of action is
4 going to be.

5 We've had conversations with the debtor. We've had
6 brief conversations with the attorneys for the creditors'
7 committee. And again, like I said, judge, we all kind of agree
8 that we're kind of in the early stages, trying to just get
9 everything laid out and do what we can. But one of our
10 important things is to have the property sold so there is --
11 that money would be, obviously, in escrow to work towards a
12 plan down the road.

13 THE COURT: All right. Just to follow up on that, you
14 suggested that there may be different ways to approach that
15 motion. I know, when we were talking at the last hearing,
16 there was a discussion about exactly what the request was to
17 lift the stay for specifically. And then there was some back
18 and forth, including statements by -- it was either you or Mr.
19 Fischoff -- about precisely what was contemplated. And that
20 seemed to be a pretty straightforward path.

21 But what you just said now seemed to be a bit more
22 mysterious in terms of saying where you're going to file it
23 exactly. Has any of the thinking changed or developed further
24 as to exactly what the step would be once the order that lifts
25 the stay is entered?

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1 MR. FISCHOFF: May I address that, Your Honor?

2 THE COURT: Sure.

3 MR. FISCHOFF: This is Gary Fischoff. Okay. So the
4 order that's being circulated contemplates that the motions to
5 address the post-judgment motions will be filed and litigated.
6 But at the same time, a notice of appeal from the judgment will
7 be filed to preserve the time, but it won't be litigated
8 without further order of the Court.

9 I think, when we were in court last time, we were
10 talking that the motions would be filed and litigated, and then
11 a notice of appeal would then be filed at the conclusion of
12 those motions. But the order now contemplates the notice of
13 appeal being filed at the same time, just not being litigated
14 until further order of the Court.

15 And if I may, I think the language of the order is,
16 kind of, everyone has agreed to. The issue is that the order
17 was not going to be entered until it was clear that Mr. Sibley
18 would not be seeking compensation from the debtor --

19 THE COURT: Right.

20 MR. FISCHOFF: -- for the work on the Freeman case.
21 And we have filed his amended retention where he says, in no
22 uncertainty, he is not going to look to the debtor for payment,
23 but only to the third parties who have been paying him in the
24 past. And the U.S. Trustee wanted an accounting of who paid
25 him how much money over the period of time. So that took a

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1 little while and delayed the filing of amended papers, because
2 we had to get this accounting done and spelled out in specific
3 dates and amount.

4 THE COURT: Okay.

5 MR. FISCHOFF: And so that's been done. So we're
6 hoping that the discussions with Ms. Strickland and the
7 creditors' committee will allow the Court to either accelerate
8 the entry of the Sibley retention, so the order that we agree
9 to modify and the stay can be entered timely, or something
10 along those lines, because I know there's concern that they
11 don't want that modification order entered prior to the
12 retention order.

13 But I think, whether the retention order is entered or
14 not, it's clear that Mr. Sibley has made it clear that he is
15 not intending to seek any payments from the debtor directly.

16 THE COURT: All right.

17 MR. FISCHOFF: So that's the latest development.

18 THE COURT: Thank you. That puts a little extra meat
19 on the bones. I appreciate that, and I appreciate the
20 subtleties of preserving appellate rights, and the one step,
21 two step, and how to handle all of that which, I'll leave to
22 you all in your considered professional judgment.

23 So I will only say this, in terms of trying to make it
24 hopefully a little easier for the parties, there are times when
25 the sequence of entering orders is significant, and so I'll be

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1 guided by the parties' wisdom if they say, Judge, we want you
2 to enter this order first and that order second, in terms of
3 making it easy for the parties to have predictability.

4 So if that matters -- it may not matter at all, but if
5 it does matter to the parties, either in terms of substantive
6 rights or, frankly, even just one less thing to worry about,
7 potential collateral consequences, you'll let me know.

8 MR. FISCHOFF: Thank you very much, Your Honor.

9 THE COURT: All right.

10 MS. SCHWARTZ: Your Honor, can I be heard on that
11 retention, on the retention issue, to give the Court some
12 update on that?

13 THE COURT: Sure.

14 MS. SCHWARTZ: Thanks. Andrea Schwartz for the U.S.
15 Trustee.

16 Your Honor, at the last hearing, the agreement was
17 that the modification of the stay order would not be entered
18 until an order was entered approving the retention of the
19 Sibley firm. As almost --

20 THE COURT: I remember it slightly different. I
21 remember that the way it was phrased is that there had to be
22 confirmation that the source of funds to pay counsel to do that
23 work was not coming from the estate.

24 I think the assumption was that's what that would look
25 like, that it naturally made sense to nest that inside of the

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1 retention application. But again, I'm not in the room where it
2 happens, where you all are discussing these things, and don't
3 have a monopoly on wisdom, so there might be other ways to do
4 it. But it makes sense to include it and that's fine.

5 MS. SCHWARTZ: Okay. Well, anyway, to that end, Your
6 Honor, it was only two days ago that an actual amended
7 application was filed for the Sibley firm because, as we had
8 advised the Court at the first hearing, upon receiving the
9 application, the initial application, we had substantial
10 comments with respect to disclosures and other things that
11 relate to the normal bread and butter retention issues that
12 happen every day in our court.

13 So we haven't had the opportunity yet to review the
14 revised application, the amended application that was filed.
15 And we'll have to look at that, in terms of we understood, for
16 sure, the timing issues on the modification of the stay and so
17 forth.

18 One of the things I'll just note for the Court, and I
19 think that it's something that should be addressed today, is
20 that -- well, it may or may not, depending upon what the Court
21 decides in terms of that retention order. But I mean, I think
22 the Court's aware that oftentimes, on these retention
23 applications, there are a lot of questions that come into play
24 on disclosures relating to connections to various parties and
25 so forth.

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1 We want to just let the Court know that we now have
2 that amended application. We know that that's the, I guess I
3 would say, the number one application on retentions that has to
4 be resolved, given the other implications that relate thereto,
5 specifically with respect to whatever post-judgment actions the
6 debtor would seek to take place.

7 So we wanted to let the Court know that was just filed
8 with the Court. And we're hoping that it addresses all of our
9 concerns, but we'll have to review that to be able to do that.
10 And if not, certainly debtor's counsel, to this date, has been
11 very cooperative with the U.S. Trustee. They've endeavored to
12 address any concerns that we have on any issue.

13 They've also filed their schedules and statement of
14 financial affairs, although I did note and raised to the
15 debtor's counsel today that it may be one attachment might be
16 missing to that. But at a minimum, they have filed the
17 necessary documents that we can go forward with the 341 meeting
18 that, as counsel said, is going to be held next Wednesday in
19 the courthouse at One Bowling Green at 2 o'clock.

20 So those things have been taken care of. So I just
21 want to let the Court know that, as debtor's counsel has said,
22 they have been in regular contact with the U.S. Trustee's
23 office, and we have also been in regular contact with counsel
24 for the committee and also counsel for the Freeman plaintiffs.

25 THE COURT: All right. Thank you very much.

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1 So let me hear from the official committee.

2 MR. DUBLIN: Good afternoon, again, Your Honor. Phil
3 Dublin, Aiken, proposed counsel to the creditors' committee.

4 Your Honor, there definitely have been some documents
5 that have been filed. There have been documents that have been
6 shared with us. Everything we get raises more and more
7 questions as it relates to the creditors' committee.

8 Just taking a little bit of a step back, before I
9 focus in on some of those things, and obviously we're not here
10 for any affirmative relief today. As it relates to the lift
11 stay order specifically, I believe, when Your Honor has an
12 opportunity to go back through the transcript from the hearing,
13 it was stated that the lift stay order, in agreed form, or in a
14 competing form, ultimately, if that's where we end up, would
15 not be entered until an order is entered with respect to the
16 Sibley firm.

17 We did receive the amended application. We are still
18 going through it. Again, it raises more questions. We do know
19 who the funds are, the defined funds that are purportedly
20 making payments on behalf of Mr. Giuliani as it relates to the
21 matters for which the Sibley firm seeks to be retained.

22 But then we have a schedule that sets forth the
23 payments that have been made, including two post-petition
24 payments, which draws some concern, at least from the
25 committee, considering that the professional has not been

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1 retained yet, to be getting post-petition payments on account
2 of services to the debtor, I believe the Court still has to
3 allow those payments to be made, even if they're coming from a
4 third party, or there needs to be appropriate disclosure with
5 respect to those, to the extent they're going to be made.

6 We'll continue to work to try to address our issues on
7 the Sibley retention. If we can get to an agreed order, if
8 we're provided additional information that we've asked for,
9 including who is behind the funds, who's providing money to the
10 funds in order for those payments to be made, hopefully we can
11 get to an agreement on that order so it can be entered before
12 or contemporaneously with the lift stay order.

13 But we're not currently at that point, and we will
14 continue to try to work constructively with debtor's counsel on
15 that issue or those issues. And I'm sure Your Honor will hear
16 from us, or debtor's counsel, to the extent we're not able to
17 reach agreement.

18 Adding additional concern, on top of the retention
19 implications, are the schedules and statement of financial
20 affairs that have been filed. There is significant information
21 that is missing, including all payments that were made within
22 ninety days prior to the filing. It's just listed as a TBD,
23 which makes it difficult for us, in the first instance, to
24 understand where money went during the ninety days, and also
25 will create some difficulty with respect to being able to

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1 complete a 341 meeting next week.

2 We have a number of questions about the values that
3 have been listed for the assets that Mr. Giuliani claims to
4 have. We think some of them are significantly understated. We
5 think some of them may be overstated. And we're going to have
6 to dig into the details on that, either at the 341 meeting, or
7 more likely, part and parcel with a 2004 motion.

8 Whether there's a pot of gold here or not, Your Honor
9 remains to be seen. We, again, are not comfortable with the
10 level of disclosure as it relates to the schedules and
11 statements, which of course were signed under penalty of
12 perjury. And we are going to investigate whether there are
13 additional assets.

14 We anticipate that the committee will, in the near
15 term, engage a forensic accounting firm, or other forensic
16 professional, to assist us in that regard in investigating
17 where assets are, where assets may have gone during the period,
18 during the pendency of the case to date, as well as prior to
19 the filing.

20 Your Honor, of course, one of the gating issues will
21 be what happens with the lift stay motion or what the district
22 court judge does with the pleadings that are filed. I would
23 like to note, I don't believe that the notice of appeal is
24 going to be filed simultaneously with what I refer to as the
25 recharacterization pleadings, because I think that would

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1 probably divest the district court of jurisdiction --

2 THE COURT: I --

3 MR. DUBLIN: So I think --

4 THE COURT: As a litigation geek, that thought
5 occurred to me, but my thought is to leave that to the folks
6 who are handling the case to make the calls as they see fit
7 under applicable law. But I assume that people will look
8 carefully at that.

9 I think, in the discussion we had initially, I assumed
10 that there was a sequence, because it was the kind of thing
11 that naturally went that way because of the way perfecting an
12 appeal works. But again, I'll leave that to you all to sort
13 through.

14 MR. DUBLIN: And thank you, Your Honor. And we will
15 work through that with debtor's counsel.

16 But the one thing that I -- or I'm sure I agree with
17 more than one thing that Mr. Berger said, but we are in the
18 early stages of the cases. The committee has been around for
19 approximately two weeks. There's a lot of work for us to do.
20 I can't put a time frame on how long these cases are going to
21 take.

22 We would hope that there is continued constructive
23 dialogue between the committee and the other stakeholders,
24 primarily the debtor. We anticipate engaging with the debtor
25 quickly, as it relates to the dischargeability of certain of

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1 the claims in this case, most importantly, or the one that's
2 liquidated as of now, the Freeman litigation, based on our
3 review, that does not appear to be dischargeable based on the
4 facts. I think there are other causes of action; to the extent
5 that they are proven up, they likewise will not be
6 dischargeable.

7 Our objective is to find out as quickly as we can what
8 the world of the claims are that are asserted against the
9 estate and also minimize the costs of administering the estate.
10 So pursuing unnecessary litigation, or potentially unnecessary
11 litigation, as to whether an ultimate liability, whatever it
12 may be quantified as, is dischargeable or not, I hope that the
13 claimants and the debtor will be able to stipulate to those
14 issues and we can avoid those litigations. But that is
15 something that we will endeavor to accomplish over the coming
16 weeks.

17 With that, Your Honor, again, we hope to work
18 constructively with the parties on every issue in this case.
19 I'm sure most will get resolved consensually, but I have no
20 doubt, Your Honor, that we're going to need your assistance at
21 various points over the ensuing weeks and months.

22 THE COURT: All right. Thank you very much.

23 So let me hear from the Freeman plaintiffs.

24 MS. STRICKLAND: Thank you, Your Honor. For the
25 record, Rachel Strickland, Willkie Farr & Gallagher.

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1 I'm not going to repeat anything that Mr. Dublin said.
2 I agree with him. The citation to the record, where it was
3 discussed that the order on retention would be entered prior to
4 the lift day, is page 80 of the transcript, from line 17 to 24.
5 And what I would say is that the reason that was there is
6 because --

7 THE COURT: Oh, I'm sorry. Let me just make it clear,
8 by my comment, I just didn't have a specific recollection of
9 exactly how it was left. I knew it was linked. But I also
10 note, to the extent that we're trying to make progress in a
11 case, I didn't want one thing to artificially hold up anything
12 else. But that's fine. That makes sense to me that we talked
13 about doing it that way, so that's fine.

14 MS. STRICKLAND: Great, Your Honor. No, I'm not
15 looking to do anything artificially. I think the concerns we
16 have, in particular about the retention application, sort of
17 jumped off the page, even though it was only filed yesterday.

18 Three things I would note. One, that law firm also
19 represents a top-twenty creditor in connection with Giuliani
20 litigation. So it's unclear whether or not the Freeman
21 litigation will actually be pursued by that firm. If they have
22 a conflict and can't be retained, we would have to go back to
23 the drawing board. So I think that needs to be resolved.

24 There is an assertion that they were paid by third-
25 party defense funds. They haven't said who those folks are or

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1 where the money came from. And there are obvious questions,
2 including the fact that one of those funds is represented by a
3 Lar Dan declaration of Andrew Giuliani, the debtor's son. So
4 the issue of source of funds is going to be very ripe. And
5 that's certainly a red flag.

6 And then thirdly, paragraph 17 of the Sibley
7 declaration says that the firm has agreed it won't seek payment
8 directly from the debtor. That jumped off the page as well.
9 So I think the reason to keep the sequence as discussed at the
10 first hearing is because it ain't over til it's over.

11 And as Mr. Dublin said, there are significant
12 questions raised by the retention. And until Your Honor hears
13 all of those things, and they've had an opportunity to be
14 probed, and an order is actually entered, we don't know whether
15 or not the gating item has been satisfied as to whether or not
16 the lift stay is appropriate, especially since, as Your Honor
17 noted at the first day hearing, Mr. Giuliani did not meet his
18 burden. And so the basis for the lift stay was our agreement
19 subject to that condition. So for that reason, I think the
20 sequencing needs to stay put.

21 But the form of order has not been difficult to arrive
22 at. I agree with Mr. Berger. I think that we have reached
23 agreement on the laundry list of items that are subject to the
24 partial lift stay, and they closely resemble what we had put in
25 our form of proposed order initially and also what was

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1 discussed at that hearing.

2 THE COURT: All right. Thank you very much. And with
3 that, let me throw it open to any other party who might wish to
4 be heard on the status of the case who has not yet spoken.

5 MR. SAMUELS: Your Honor, Joel Samuels of the
6 Buchalter firm on behalf of the Dominion parties.

7 I appeared at the December 19th hearing, and there was
8 a brief colloquy on the record about the motion filed by the
9 Herring parties to clarify the scope of the automatic stay as
10 it pertained to nonbankruptcy litigation pending in the
11 district court, in which Mr. Giuliani is one of five different
12 parties who are part of that litigation.

13 I'm pleased to report that we have reached agreement
14 with counsel for the Herring parties on a stipulation and
15 proposed order to resolve that. I've sent that to counsel for
16 the debtor last night, because the stipulation does include the
17 debtor as a signatory. I'm waiting to hear back from the
18 debtor on that.

19 But I wanted Your Honor to be aware, A, that may be
20 why the Jackson Walker firm is not appearing, because they've
21 resolved things as far as they're concerned. And B, I wanted
22 you to be aware that there will be forthcoming a stipulation
23 and proposed order for you to review.

24 THE COURT: All right. Thank you very much. That was
25 on my list of things to discuss. And so you've happily

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1 answered the question before it was even asked, because we
2 hadn't heard anything from anyone about scheduling that. And
3 so that's good to know.

4 Is it your understanding that that kind of stipulation
5 and proposed order will be put on presentment, meaning so that
6 the -- because there's obviously a lot of interested parties in
7 this case, and there's certain issues that may crop up, in a
8 variety of contexts, involving a variety of parties. So it
9 would be, I think, important to give folks a chance to weigh
10 in. So is that the intention?

11 MR. SAMUELS: I think so. I haven't thought that
12 through completely. I think so.

13 THE COURT: All right. I think that would make sense
14 to do it that way so that anybody who skin in the game on those
15 kinds of issues can see how they're being handled in that case
16 and whether it has any impact on them or not.

17 Again, it may have no other impact on parties other
18 than the parties who are on the stipulation, but better safe
19 than sorry so that we don't -- once it's worked out, it's
20 worked out in a more permanent way.

21 All right. Ms. Samuels, anything else?

22 MR. SAMUELS: That's it. Thank you.

23 THE COURT: All right. Thank you.

24 Anyone else?

25 MS. SCHWARTZ: Your Honor, it's Andrea Schwartz from

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1 the U.S. Trustee's office.

2 I just wanted to let the Court know that we received,
3 either last night or today, the last circulated order that's
4 been talked about by the parties on modification. So we will
5 need an opportunity to review that as well.

6 THE COURT: Yeah, it sounds like the parties are still
7 working through that. And --

8 MS. SCHWARTZ: Yeah.

9 THE COURT: -- then very collegial and cooperative in
10 doing that, even if people have some significant substantive
11 disagreements about things in the case, and I appreciate that.
12 It's the way it's supposed to work. You agree on what you can
13 agree upon, and you fight about what you need to fight about.
14 So certainly --

15 MS. SCHWARTZ: Right.

16 THE COURT: -- I'll be guided by the parties in
17 connection with that and wait to hear from you all once you
18 reach the end of that road, which might be an agreed-upon
19 order, or it might be that you agree to disagree.

20 So all right, anyone else who wishes to be heard?

21 All right. It's always hard in Zoom to know exactly
22 when everybody is done chiming in. But to the extent somebody
23 is having technical issues and needs to chime in later, that's
24 fine. But at this point, it sounds like we've heard from
25 everybody. And I just wanted to share a couple of thoughts,

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1 not in any particular order, but things that hopefully will be
2 of use to the parties going forward.

3 We'll talk in a minute about a date for our next
4 hearing and status conferences. Just for those of you who
5 might not otherwise know, I'm a fan of status conferences as a
6 chance to sort of get everybody up to speed, and talk about
7 issues, and potentially resolve issues, and thus keep the case
8 moving forward, keep it moving forward in an efficient way and
9 avoid unnecessary litigation, and to make sure everybody feels
10 like they understand where things are going.

11 So that's part and parcel with communication. It
12 sounds like that's happening in this case. People are talking
13 to one another about issues, about orders, about things that
14 they should be talking about. That really needs to continue
15 for the case to work successfully.

16 I'm giving away a little ice in the winter here in the
17 sense that we've all seen cases that have worked well because
18 people communicate, and they still litigate what needs to be
19 litigated, and other cases where everything is a problem
20 because people are not talking to one another.

21 So I appreciate that this case right now falls into
22 the good category. And so I appreciate everybody's efforts in
23 that regard. And I appreciate you continuing in that same
24 fashion.

25 There was a mention of a Rule 2004. The general

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1 practice in this district -- and I fall into that category --
2 is that those things can be done on an ex parte basis to
3 chambers, except where people think there may be issues or it's
4 an interest of wider concern in a case.

5 And so sometimes I see a case where I can tell right
6 away that something like a Rule 2004 should be done, sort of,
7 on regular notice, as a regular motion, rather than an ex parte
8 basis, and then enter an order, and then people will object,
9 and we end up having a lot of duplication of efforts and not a
10 very efficient path forward.

11 So to the extent this Rule 2004 request is going to
12 come, I would say treat it like any other motion, and also talk
13 to folks ahead of time to get a sense of working out as much as
14 you can work out, again, without giving up your rights, but
15 just, again, to try to be as efficient as possible. And I
16 think that's consistent with my chambers rules that say, if you
17 anticipate that you might get an objection, then handle it,
18 sort of, on regular notice.

19 There was a comment made about information that is
20 being disclosed in the context of schedules and the statement
21 of financial affairs, including information about transfers
22 within ninety days and all of that. That obviously is very
23 important. With bankruptcy, a debtor gets certain benefits,
24 such as the automatic stay, and with that comes certain
25 obligations, which is a principal; among them is financial

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1 transparency.

2 So I trust that will, again, be the order of the day
3 for this case. So I certainly urge people to get their hands
4 around that as quickly as they can in terms of getting all of
5 the financial information out there. That's certainly what I
6 heard from debtor's counsel when we had our first hearing. And
7 sometimes it takes a little while to get certain things
8 together, but obviously my understanding would be that all of
9 that kind of information is provided at the earliest
10 opportunity.

11 So with that, my question would be when we should next
12 get together. We'll talk in a second about specific dates.
13 But those will be set with the understanding that, if people
14 need something else, they can always reach out to chambers to
15 get a motion on the calendar.

16 That said, in the interest of efficiency, we try to
17 gather everything in a case for a hearing date where we can, as
18 opposed to setting a lot of separate individual dates so that
19 we're here every week. That's not a cost-effective way to run
20 a case and impose on people's time. So certainly, again, to
21 the extent you can share information with folks before you file
22 things, including trying to work out scheduling, that's much
23 appreciated.

24 So with that speech out of the way, and thank you for
25 your patience in having me cover things that, frankly, you all

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1 already know, let me talk to debtor's counsel about when you
2 think would be a sensible time to next get together.

3 MR. BERGER: Sure, Your Honor. I mean, I think, on a
4 status conference, I mean, the first or second week in March, I
5 think probably makes sense. And obviously, we'll have the 341
6 meeting. We may end up having to come into court earlier if we
7 have issues in regard to the Sibley retention, but hopefully we
8 can all work that out together.

9 But I think pushing it off to probably sometime the
10 first or second week in March, I think, will give all the
11 parties time to really sit down, go through some issues that we
12 need to, and work on a path forward on what we need to do, and
13 hopefully resolve some of the outstanding questions that some
14 of the parties have, that we can do that on our own without
15 having to expend more time and money.

16 THE COURT: All right. That sounds reasonable. And
17 so I will avoid the Ides of March, but how about we go with
18 March 13th, which I believe is a Wednesday. I don't have a
19 calendar in front of me.

20 MR. BERGER: Yes, Your Honor.

21 THE COURT: At 10 o'clock. And to the extent that
22 parties are working through issues and find themselves at the
23 end of the road, and I could be of some assistance, talk to one
24 another and then reach out to chambers. Happy to get you on a
25 on a conference call very promptly. I usually do that within a

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1 day or two. And that way you can keep the -- as Judge Chapman
2 used to like to say, keep your powder dry on sending in letters
3 or filing further motions in the interest of efficiency.

4 And again, whenever I ask people to do that, you
5 always do retain the right to say, Judge, we'd like to brief
6 this, or there's some legal issue, whatever. That's fine. But
7 again, in the first instance, we'll try to work out as much as
8 we can using status conferences.

9 So March 13th at 10 o'clock, unless somebody has a
10 conflict that makes that impossible.

11 All right. Not hearing anything, we'll make it March
12 13th, 10 o'clock.

13 And with that, anything else from any other party
14 before we adjourn today?

15 MR. BERGER: Nothing on our end, Your Honor. Again,
16 we thank the Court for its courtesies in this matter.

17 THE COURT: All right. Thank you all very much. With
18 that, the Court is adjourned, and I bid you all a very good
19 afternoon.

20 MR. BERGER: Thank you, Your Honor.

21 MR. DUBLIN: Thank you, Your Honor.

22 MS. SCHWARTZ: Thank you, Your Honor.

23 (Whereupon these proceedings were concluded at 2:51 PM)

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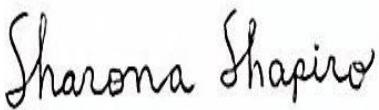
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3

4 I, Sharona Shapiro, certify that the foregoing transcript is a
5 true and accurate record of the proceedings.

6

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10 Sharona Shapiro (CET-492)

11 AAERT Certified Electronic Transcriber

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17 Date: February 6, 2024

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